

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

\$35,131.00 IN U.S. CURRENCY,

Defendant in rem.

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Civil Action No.: 4:11-cv-02659

ANSWER OF KYLE DANIEL JONES AND BEREKTI ABEBE JONES

Kyle Daniel Jones and Berekti Abebe Jones, Claimants, respectfully submit the following to the Court:

1. Mr. and Mrs. Jones admit the nature of the action alleged in Paragraph 1 of the Amended Verified Complaint for Forfeiture In Rem.

2. Mr. and Mrs. Jones admit the nature of the Defendant in rem as alleged in Paragraph 2.

3. Mr. and Mrs. Jones admit to the jurisdiction alleged in Paragraph 3.

4. Mr. and Mrs. Jones admit that venue is proper.

5. Mr. and Mrs. Jones neither admit nor deny the basis for forfeiture as alleged in Paragraph 5.

6. Mr. and Mrs. Jones admit the first two sentences alleged in Paragraph 6 but generally deny the remainder of Paragraph 6. Mr. and Mrs. Jones do not remember the interaction between Mr. Jones and the CBP officer occurring exactly as set forth in Paragraph 6. For example, the Joneses do not believe that the CBP officer addressed Mrs. Jones; Mr. Jones does not believe that the CBP Officer asked Mr. Jones if he was travelling with more than

\$10,000 in any "monetary instruments," nor does Mr. Jones believe that the CPB Officer explained the requirements of 31 U.S.C. § 5316. Rather, Mr. Jones remembers that the CPB officer asked him how much U.S. currency that Mr. Jones and his wife were carrying and, in response, Mr. Jones indicated that he was not sure. The CPB Officer then asked Mr. Jones how many dollars were being carried and Mr. Jones stated that he would guess about \$20,200. The CPB officer then wrote that number down on a piece of paper, told Mr. Jones to sign it, and directed him to an inspection line.

7. Like Paragraph 6, Mr. and Mrs. Jones do not remember the events set forth in Paragraph 7 occurring exactly as set forth therein and therefore generally deny them. At the inspection table, the next CPB officer asked about various types of currency, mentioning traveler's checks in particular. Mr. Jones remembers acknowledging that he had traveler's checks and voluntarily turned over the checks (\$20,000), as well the cash he was carrying (\$11,131), at the inspection table. Mrs. Jones was carrying \$4,000 in her purse, which was also voluntarily turned over at the inspection table.

8. Mr. and Mrs. Jones deny that Plaintiff is entitled to the relief requested in Paragraph 8.

Affirmative and Other Defenses

9. Mr. and Mrs. Jones allege the following affirmative and other defenses with respect to the Amended Complaint, without assuming the burden of proof when such burden rests upon the Plaintiff:

10. Mr. and Mrs. Jones allege that the Amended Complaint fails to state facts sufficient to constitute a cause of action against the defendant properties. This includes but is not limited to the fact that currency carried by Mrs. Jones was seized but Mrs. Jones was not

carrying more than \$10,000 and therefore did not have a reporting requirement under the relevant statute.

11. Further, Mr. and Mrs. Jones allege that the forfeiture in this case is disproportionate, and is a violation of the Eighth Amendment to the United States Constitution.

12. Mr. and Mrs. Jones reserve the right to amend these affirmative and other defenses.

Prayer

Claimants Kyle Daniel Jones and Berekti Abebe Jones ask the Court to dismiss all claims asserted by Plaintiff with prejudice, and to issue a judgment that Plaintiff take nothing and that Claimants recover their costs and attorney fees and all other relief, in law or in equity, to which they may be justly entitled.

Dated: September 12, 2011.

Respectfully submitted,

YETTER COLEMAN LLP

By: /s/ Bryce L. Callahan

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ATTORNEYS FOR CLAIMANTS
KYLE DANIEL JONES
AND BEREKTI ABEBE JONES

CERTIFICATE OF SERVICE

I hereby certify that on September 12, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/EMF system which will send notification of such filing to the following:

Albert Ratliff
Assistant U.S. Attorney
P.O. Box 61129
Houston, Texas 77208

/s/ Bryce L. Callahan
Bryce L. Callahan